IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Case No. 8:09CR323
	)	
v.	)	
	)	**REPORT AND RECOMMENDATION**
MANUEL J. TORRES,	)	**AND ORDER**
	)	
Defendant.	)	

This matter came on for hearing on October 16, 2009 on defendant's Motion to Suppress (#14). At the conclusion of the hearing and after the court had set out its ruling on the record, the defendant made an oral motion to reopen the record. The motion was taken under advisement.

The motion to reopen is denied. The evidence in this case clearly shows the defendant's free and voluntary consent to the search of his cooler by law enforcement, the presence of the defendant during the search of the cooler, no objections by the defendant to the search of the cooler, and no evidence law enforcement manipulated the cooler to any greater extent than was necessary to remove the drugs.

As to the motion to suppress, I stated my conclusions on the record and my decision to recommend that the motion to suppress be denied. In accordance with that announcement,

IT IS RECOMMENDED to the Honorable Laurie Smith Camp, United States District Judge, that the Motion to Suppress (#14) be denied in all respects.

FURTHER, IT IS ORDERED:

1. The defendant's October 16, 2009 oral motion to reopen the record is denied.

2. The clerk shall cause a transcript of the hearing to be prepared and filed.

3. Pursuant to NECrimR 57.3, any objection to this Report and Recommendation shall be filed with the Clerk of the Court within ten (10) days after the unredacted transcript is available to counsel. Failure to timely object may constitute a waiver of any such objection. The brief in support of any objection shall be filed at the time of filing such objection.   Failure to file a brief in support of any objection may be deemed an abandonment of the objection.

Dated this 10th day of November 2009.

BY THE COURT:

S/ F.A. Gossett
United States Magistrate Judge